

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER: 2010.03
COMPLAINT INVESTIGATOR: Connie Rahe
DATE OF COMPLAINT: March 6, 2003
DATE OF REPORT: April 3, 2003
REQUEST FOR RECONSIDERATION: yes/revised - May 2, 2003
DATE OF CLOSURE: June 30, 2003

COMPLAINT ISSUES:

Whether the Metropolitan School District of Lawrence Township violated:

511 IAC 7-27-7(a) by failing to implement the student's individualized education program (IEP) as written, specifically, by failing to:

- a. provide lesson topics and assignments to parents; and
- b. provide auditory verbal therapy.

FINDINGS OF FACT:

1. The Student is thirteen years of age, attends the local middle school (the School), and qualifies for special education and related services under the categories of hearing impairment and communication disability.
2. The Student's current agreed-upon IEP has initiation and duration dates from May 16, 2002, to May 15, 2003. The IEP requires teachers to provide the Complainant with lesson topic and assignments to the Complainant one week in advance of class instruction. The School acknowledges that all teachers did not consistently meet this IEP accommodation requirement, as documented in e-mail correspondence between the Complainant and teacher of record.
3. The Student's IEP states that language therapy for auditory verbal communication skills is to be provided by a specific private speech-language therapist one time per week for 60 to 90 minutes. In addition, the IEP contains in the case conference committee (CCC) notes an agreement specifying that a personnel change would be made in the fall of the 2002-2003 school year. The auditory/verbal therapy the Student received from the private therapist was to continue until an evaluation was done in the fall by school evaluators. The School completed the evaluation in October 2002. The School terminated the services of the private speech-language therapist at a CCC meeting convened on December 12, 2002. A revised IEP, dated December 12, 2002, reflects the change in personnel. On February 28, 2003, the School sent a letter to the Complainant stating that the School would utilize its speech-language pathologist to provide language therapy services beginning "immediately." Although neither the School nor the Complainant can document the actual day services began, both agree that services began the week of February 28th. The School provided no language therapy between December 12, 2002, and February 28, 2003.

CONCLUSIONS:

1. Finding of Fact #2 indicates that the School failed to implement the Student's IEP when lesson topics and assignments were not consistently provided to the Complainant one week prior to classroom instruction. Therefore, a violation of 511 IAC 7-27-7(a) is found for failing to implement the student's IEP with respect to the provision of lesson topics and assignments.
2. Finding of Fact #3 demonstrates that the School failed to implement the Student's IEP by discontinuing language therapy as specified in the Student's revised IEP completed in December 2002. Therefore, a violation of 511 IAC 7-27-7(a) is found for failing to provide language therapy in accordance with the terms of the IEP.

DISCUSSION:

Although not an issue in this complaint, the IEP describes the length of the language therapy to be provided in terms of a range of minutes (60-90 minutes per week). The IEP does not contain any evaluative criteria for determining whether the Student will receive language therapy for 60 minutes, 90 minutes, or something in between in any given week. The length of service is stated in such a manner that neither the parent nor the therapist can clearly identify how many minutes of language therapy the Student will actually be receiving each week. Stating the length of service as a "range" is permissible only when necessary to meet the unique needs of the student. When a range is used, the IEP must also specify the criteria for determining the number of minutes of service that will actually be provided to the student.

The Department of Education, Division of Exceptional Learners requires the following corrective action based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTION:

The MSD of Lawrence Township shall:

1. Provide compensatory language therapy services, utilizing the private speech-language therapist identified in the Student's IEP, for the lack of services between December 12, 2002, and February 28, 2003. Compensatory services are determined to be 90 minutes per week for each of the weeks in which the Student would have received language therapy services had the School not terminated the services of the private provider. Documentation of the provision of these compensatory services shall be submitted to the Division no later than June 1, 2003.
2. Convene the CCC to determine whether, and to what extent, compensatory services are to be provided as a result of the failure to consistently provide prior notice of lesson topics and assignments. The CCC's consideration of compensatory services shall be clearly delineated in the CCC report and IEP. A copy of the CCC Report and IEP shall be submitted to the Division no later than May 30, 2003.
3. Send a written reminder to appropriate personnel that they are responsible for ensuring that a student's IEP is implemented as written. A copy of the written memorandum and a list of personnel to whom the memorandum was sent shall be submitted to the Division no later than May 16, 2003.